

### **REMARKS**

The Applicants have carefully considered this application in connection with the Examiner's Action and respectfully request reconsideration of this application in view of the foregoing amendment and the following remarks.

The Applicants originally submitted Claims 1-11 in the application, and in a prior response, elected to prosecute Claims 1-6. In the present response, the Applicants have amended Claim 1-3 and added Claims 12-13. Support for the amendment to Claims 1-3 include paragraph [0030] and FIGS. 6A-14. Support for new Claims 12-13 includes FIG. 10-12, and paragraphs [0034]-[0041]. Accordingly, Claims 1-6 and 12-13 are currently pending in the application.

#### **I. Obviousness-Type Double Patenting Rejections**

The Examiner has continued to provisionally rejected Claims 1-4 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-4 of copending U.S. Application No. 10/803,641 ('641).

In response, the Applicants maintain that because all the other grounds for the rejection of the claims currently pending in the application have been successfully refuted as set forth below, and because the '641 application has not yet issued, the Examiner should withdraw this provisional rejection and allow the claims to issue. The Applicants also wish to point out that the Examiner has provided no grounds for his assertion that the instance claims are completely encompassed by the claims of '641, because it "would have been obvious to a person of ordinary skill that an electrode is first a substrate." That is, the Examiner has not provided evidence supporting the assertion that an electrode is a substrate. For instance, the Applicants disagree that a substrate is inherently an electrode.

## **II. Rejection of Claims 1-6 under 35 U.S.C. §102**

The Examiner has rejected Claims 1-2 and 4-6 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 6,241,333 to Wen ("Wen").

Claim 1, among other things, recites, "a plurality of closed cells." As noted on Page 8, Lines 11-13 of the specification, "the term closed cell is defined as a cell that is enclosed on all sides except for the side upon which a liquid is or could be disposed."

In contrast, Wen discloses nozzles. Wen's nozzles are open structures that permit the flow of ink into one end and out another end of the nozzle to a receiving media (See e.g., Wen's FIG 1-2E and Column 1, Lines 19-49). As such, Wen does not teach or suggest a plurality of closed cells, such as recited in Claim 1.

Therefore, Wen as applied by the Examiner, does not teach each and every element of Claim 1 and as such, is not an anticipating reference for this claim, or its dependent claims. Accordingly, the Applicants respectfully request the Examiner to withdraw the §102 rejection with respect to these claims.

## **III. Rejection of Claim 3 under 35 U.S.C. §103**

The Examiner has rejected Claim 3 under 35 U.S.C. §103(a) as being unpatentable over Wen.

The Applicants disagree, because, for the reasons presented in Section II above, Wen does not teach or suggest all of the elements of Claim 1, which Claim 3 is dependent on.

In view of the foregoing remarks, the cited reference as applied by the Examiner does not establish a *prima facie* case of obviousness to support the Examiner's rejection of the above claim under 35 U.S.C. §103(a). The Applicants therefore respectfully request the Examiner withdraw the

rejection.

#### **IV. Conclusion**


In view of the foregoing amendment and remarks, the Applicants now see all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicit a timely Notice of Allowance for Claims 1-6 and 12-13.

It is not believed that any fees are due regarding this matter, however, the Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 08-2395.

The Applicants request the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application.

Respectfully submitted,

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